BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
Jeffrey Brian Frost, M.D.	)	**Case No. 800-2014-007320**
Physician's and Surgeon's Certificate No. G 29711	)	
Respondent	)	

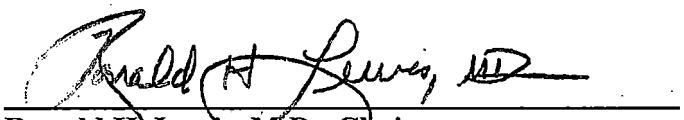
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 3, 2018.

IT IS SO ORDERED: July 5, 2018.

MEDICAL BOARD OF CALIFORNIA



Ronald H. Lewis, M.D., Chair
Panel A

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
JANNSEN TAN
Deputy Attorney General
State Bar No. 237826
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 445-3496
Facsimile: (916) 327-2247

Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JEFFREY BRIAN FROST, M.D.** **Sierra Nevada Memorial Hospital** **136 Glasson Way** **Grass Valley, CA 95945** **Physician's and Surgeon's Certificate No. G 29711** Respondent.	Case No. 800-2014-007320 OAH No. 2017080801 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Jannsen Tan, Deputy Attorney General.

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2. Respondent Jeffrey Brian Frost, M.D. (Respondent) is represented in this proceeding by attorney Lawrence S. Giardina, Esq., whose address is: 400 University Ave., Sacramento, CA 95825-6502

3. On or about July 1, 1975, the Board issued Physician's and Surgeon's Certificate No. G 29711 to Jeffrey Brian Frost, M.D. (Respondent). The Physician's and Surgeon's Certificate No. was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-007320, and will expire on January 31, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2014-007320 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 17, 2017. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2014-007320 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-007320. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2014-007320 and that he has thereby subjected his license to disciplinary action.

10. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him, before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2014-007320 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

13. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time that the Board considers and acts upon it.

14. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or

the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board, in its discretion, does not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for any reason, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

15. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

16. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

17. In consideration of the foregoing admissions and stipulations, the parties agree the Board may, without further notice to or opportunity to be heard by Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 29711 issued to Respondent Jeffrey Brian Frost, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years, from the effective date of decision, on the following terms and conditions.

1. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any

recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

3. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

5. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose

licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws;

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General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

13. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

15. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Lawrence S. Giardina, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G 29711. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 3-1-18

JEFFREY BRIAN FROST, M.D.
Respondent

I have read and fully discussed with Respondent Jeffrey Brian Frost, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/5/18

LAWRENCE S. GIARDINA, ESQ.
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 5/8/2014

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

JANNSEN TAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-007320

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
JANNSEN TAN
Deputy Attorney General
State Bar No. 237826
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 445-3496
Facsimile: (916) 327-2247

Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Jeffrey Brian Frost, M.D.** **Sierra Nevada Memorial Hospital** **136 Glasson Way** **Grass Valley, CA 95945** **Physician's and Surgeon's Certificate No. No. G 29711,** Respondent.	Case No. 800-2014-007320 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about July 1, 1975, the Medical Board issued Physician's and Surgeon's Certificate No. G 29711 to Jeffrey Brian Frost, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2019, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

5. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate.

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

6. Section 2266 of the Code provides:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

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DANGEROUS DRUGS AT ISSUE

7. Adderall is a brand name for dextroamphetamine and amphetamine, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is an amphetamine salt used for attention-deficit hyperactivity disorder and narcolepsy.

8. Modafinil is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

9. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

10. Hydrocodone, with multiple brand names including, Norco, Vicodin, etc., is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022.

11. Diazepam, with multiple brand names, including Valium, Diastat, etc., is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

12. Butalbital is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (c), and a dangerous drug pursuant to Business and Professions Code section 4022.

13. Codeine is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

14. Zolpidem, with multiple brand names, including Ambien, Ivadal, etc., is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

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15. Lorazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

16. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that she committed repeated negligent acts in her care and treatment of Patients B.S., C.S., D.M., V.A., E.F., and K.F., as more particularly alleged hereinafter.

Patient B.S.

17. Patient B.S. was a 48-year-old male who received a liver transplant in his early 20's in 1990 for end stage liver disease due to Budd-Chiari syndrome. Because of his chronic need for anti-rejection drugs, Patient B.S. developed stage IV Non-Hodgkin's lymphoma requiring chemotherapy. He developed peripheral neuropathy and chronic headaches due to chemotherapy and immunosuppressive therapy. Patient B.S. also had a hypercoagulable condition with recurrent venous thrombi and polycythemia vera. He was on chronic anticoagulation therapy.

18. In the mid 2000's, Patient B.S. was seen by neurology staff for management of his chronic headaches and neuropathy. According to neurology staff, multiple medications were tried to control his pain. Patient B.S. was finally stabilized on chronic oxycodone therapy. His neuropathy pain was complicated by chronic back and knee pains, and he was diagnosed with nerve impingement by orthopedics staff.

19. Respondent saw Patient B.S. during 2012 to 2015. During this period, Respondent prescribed monthly prescriptions of Oxycodone 20 mg dosage, #360 per month; Adderall 30 mg dosage, #360 per month, and Modafinil 200 mg dosage, #60 per month.

20. On or about January 23, 2012, Respondent documented a referral to a pain specialist. Patient B.S. was diagnosed to have chronic fatigue with adult attention deficit hyperactivity disorder (ADHD) and sleep apnea. He was evaluated by neurology and psychiatry staff and

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recommended to take high doses of Adderrall and Modafinil. He was also treated with central positive pressure therapy.

21. In March 2012, Patient B.S. was evaluated by a pulmonary specialist. According to the specialist, his main risk factor for sleep apnea was his usage of high dose Oxycodone.

22. Respondent committed repeated negligent acts in his care and treatment of Patient B.S. which included, but were not limited to the following:

A. During the period of 2012 to 2015, Respondent failed to appropriately manage Patient B.S.'s chronic pain in relation to his sleep apnea. Respondent failed to recommend conventional non-opioid therapy such as anticonvulsants, antidepressants, topical therapy, and cognitive behavior therapy. Respondent failed to consider and/or taper down narcotics and rely more on non-opioid methods to control pain, in light of Patient B.S.'s sleep apnea.

B. During the period of 2012 to 2015, Respondent failed to adequately monitor Patient B.S.'s opioid usage. Respondent failed to initiate and/or document a psychological evaluation assessing Patient B.S.'s risks for addictive behaviors. Respondent failed to perform periodic assessments to determine if the pain medication was meeting the patient's goal of improving functional status, especially considering Patient B.S.'s sleep apnea and his risk for narcotic overdose because of his excessive daily narcotic dosage that exceeded the 90 mg morphine equivalent threshold. Respondent also failed to follow up on the pain management consultation. Respondent also failed to check CURES[1] and initiate and/or document urine drug screens.

C. During the period of 2012 to 2015, Respondent failed to maintain adequate progress notes. Respondent failed to document progress in pain management and functional improvement of Patient B.S.

Patient C.S.

23. Patient C.S. was a 48-old-male who was suffering from military and sports related injuries of his bilateral knees. In 2007, he had an MRI confirming the severity of his knee

[1] Controlled Substance Utilization Review and Evaluation System, is a database of Schedule II, III and IV controlled substance prescriptions dispensed in California.

condition with ligament injuries and osteoarthritis. He was evaluated by multiple orthopedic surgeons in U.C.S.F and UC Davis. He had multiple cortisone injections without improvement.

24. In 2011, Respondent prescribed Patient C.S., 180 tablets of Hydrocodone 10 mg, per month. In 2012, Respondent increased the Hydrocodone prescription to about 360 tablets per month, and went as high as 600 tablets in December 2012. During this time, there were multiple early refills intermittently.

25. On or about July 26, 2012, Respondent saw Patient C.S. to discuss Patient C.S.'s visit with a pain management specialist. Respondent documented that Patient C.S. had been turned down for orthopedic surgery for total knee replacement due to his young age. The pain management specialist felt that Patient C.S. had developed a narcotic induced low pain threshold, and the opioids themselves were contributing to the endless cycle of severe pain. Respondent recommended that Patient C.S. go along with the suboxone program outlined by his pain management specialist.

26. In 2012, Patient C.S. stopped seeing his pain management specialist. Respondent continued to prescribe and increase Patient C.S.'s prescriptions for Hydrocodone.

27. On or about December 18, 2012, Respondent saw Patient C.S. for a pre-surgery assessment. Respondent documented that "Patient C.S. was on Hydrocodone 10/325 mg up to 10-15 pills a day for severe pain. [Patient C.S.] had been to a clinic in an effort to review his pain threshold, the high doses of opioids, the acetaminophen loading/dosing in view of potential nephron-hepatoxicity. [Dr. C.L.], pain specialist suggested a trial of suboxone which the pt subscribed to briefly but then after only a short time period he stopped the suboxone program and went back to hi dose Norco."

28. On or about July 11, 2013, Respondent saw Patient C.S. for a postoperative follow-up. Patient C.S. stated that his knee pain was much improved after the surgery and he wished to wean off the opioid medications. He agreed to enter a suboxone program with pain management to wean off the opioid medications.

29. Respondent committed repeated negligent acts in his care and treatment of Patient C.S. which included, but were not limited to the following:

A. During the period of 2011 to 2012, Respondent failed to adequately monitor Patient C.S.'s opioid usage. He failed to see that Patient C.S. was developing physical tolerance to the opioid and continued to escalate the quantity of Norco pills to excessive quantities in the last months of 2012. Respondent failed to refer Patient C.S. to an addiction specialist who could help the patient mentally cope with his pain and taper the opioids to a safe level. Respondent continued to refill opioids and escalated the quantity of hydrocodone tablets above the maximum safe daily dosage. Respondent failed to recognize Patient C.S.'s increased risk for liver toxicity. Respondent did not perform any periodic reviews, urine drug testing or checking CURES reports to monitor any diversion.

B. During the period of 2011 to 2012, Respondent failed to discuss and/or document discussions with Patient C.S. about the risks and benefits of narcotic pain medications. Respondent failed to document a pain agreement or informed consent.

C. During the period of August to December 2012, Respondent failed to document any information justifying the escalation of the monthly quantity of Norco tablets. There was also no documentation regarding whether Patient C.S. had reached his functional or pain reduction goals.

Patient D.M.

30. Patient D.M. was a 74-year-old female with multiple medical issues. She had ulcerative colitis on immunosuppressive therapy. She had chronic degenerative shoulder arthritis which required shoulder replacement surgery. In 2012, she had spinal fusion surgery for back pain. She also had multiple surgeries for removal of mastoid tumors in her ear canal. These multiple head and neck surgeries left her with constant headaches, vertigo and dizziness. Patient D.M. also suffered from depression and insomnia.

31. During the period of 2011 to 2012, Respondent prescribed Patient D.M., 90 tablets of Diazepam 5mg and 30 tablets Hydrocodone 10 mg on a monthly basis. During the same period, Patient D.M. also received 3 month supplies of Butalbital-Codeine and Zolpidem 12.5 mg per prescription. Patient D.M. averaged about 90 tablets of Codeine per month and 30 tablets of Zolpidem per month. In 2013 to 2014, Respondent continued to issue refills for a 90-day supply of Diazepam, Hydrocodone, Codeine, and Zolpidem. She averaged 90 tablets per month of

Diazepam 5mg; 60 tablets per month of Hydrocodone 10 mg; 90 tablets per month of Butalbital-Codine; and 30 tablets per month of Zolpidem 12.5 mg. In 2015 to 2016, Respondent continued all these controlled substances at a 90-day supply. However, the quantity of hydrocodone was increased to 90 tabs per month.

32. Respondent committed repeated negligent acts in his care and treatment of Patient D.M. which included, but were not limited to the following:

A. During the period of 2011 to 2012, Respondent failed to appropriately manage Patient D.M.'s medication. Respondent failed to account for the increased risk of drug overdose and death due to the concurrent use of a benzodiazepine and an opioid. Respondent failed to taper down either of these types of medication or offer non opioid medication. Respondent failed to offer Patient D.M. Naloxone antidote therapy and educate her about its usage and benefits.

33. Respondent failed to consider anticonvulsants and tricyclic antidepressants in managing Patient D.M.'s headaches. Respondent failed to refer or document a neurology consultation for management of Patient D.M.'s chronic headaches. Respondent also prescribed two short acting narcotic medications without adequate monitoring. Respondent failed to initiate urine drug testing and check CURES to monitor for diversion.

34. Respondent failed to maintain adequate records. Respondent's progress note did not reflect the justification for increasing the monthly quantity of hydrocodone in July 2015. The clinic notes were lacking any details regarding the patient's progress and functional improvement. Respondent's clinical notes did not contain the justification for using high dose diazepam for controlling vertigo. Respondent failed to discuss the risks and benefits of using these controlled substances until a pain care agreement was signed in October 2016.

Patient V.A.

35. Patient V.A. was a 77-year-old male with severe erosive rheumatoid arthritis, lung disease, osteoporosis with multiple fractures including ribs, clavicle and vertebra. He also had frequent dizziness with multiple mechanical falls. He had tried kyphoplasty for his spinal fractures and also epidural injections for his back pain and physical therapy for his muscle weakness and unsteady gait, all without much improvement.

36. In 2011, Patient V.A. was taking an average of 360 tablets of Hydrocodone 10 mg per month. Because of increasing pains, Respondent increased Patient V.A.'s prescription for Hydrocodone. Patient V.A. filled multiple prescriptions for Hydrocodone from 360 tablets to 1080 tablets per month at different pharmacies at irregular intervals. The average Hydrocodone refilled in the year 2012 totaled 1100 tablets per month.

37. In March 2012, Patient V.A. reported that his Hydrocodone tablets were stolen. Respondent refilled Patient V.A.'s prescription for 360 tablets of Hydrocodone.

38. On or about July 24, 2012, Respondent referred Patient V.A. to a pain management specialist. The pain management specialist recommended tapering down opioid usage by 10% per month.

39. On or about August 14, 2012, Respondent saw Patient V.A. for an office visit. Respondent documented, "Having much falls and this is nothing new, we have disc this, falls prevention, reduction in his pain meds, we even referred him for another opinion regards pain control [Dr. L.] and she recommended pt. continue his Norco but to cut back the dose from his 1000 pills a month!! She is aware of this tendency, and [Patient V.A.] says he has cut back to at least half that...concern being raised he is having much falls because of excessive sedating pain meds." Respondent continued to refill Patient V.A.'s hydrocodone prescription at a high rate contrary to the pain management specialist's recommendation.

40. Respondent committed repeated negligent acts in his care and treatment of Patient V.A. which included, but were not limited to the following:

A. During the period of 2011 to 2012, Respondent failed to monitor and appropriately assess Patient V.A.'s opioid usage. Respondent failed to recognize potential drug seeking behavior in relation to multiple early refills, a stolen prescription, and a large volume of Hydrocodone. Respondent failed to assess that Patient V.A. was not obtaining adequate analgesia from the increasing dosage of Hydrocodone. Patient V.A.'s functional status was not improved on the opioid medications as he continued to have mechanical falls. Respondent failed to taper off the Hydrocodone despite Patient V.A.'s chronic falls and the pain specialist's recommendation. Respondent failed to timely refer Patient V.A. to pain management. Respondent prescribed

Hydrocodone in amounts that exceeded the maximum dose of acetaminophen per day. Respondent failed to counsel Patient V.A. about the usage of naloxone therapy for emergency drug overdose.

B. During the period of 2011 to 2012, Respondent failed to maintain adequate medical records. Respondent's progress notes do not reflect the actual medications being taken by Patient V.A. Respondent failed to initiate urine drug testing and review CURES to monitor diversion behavior.

C. During the period of 2011 to 2012, Respondent failed to document informed consent or a pain agreement.

Patient E.F.

41. Patient E.F. was a 22-year-old female patient who was being seen by a primary care provider who was not the Respondent.

42. On March 6, 2014, Respondent prescribed Lorazepam for anxiety. Respondent issued the prescription to Patient E.F. via telephone, without physical examination and thorough evaluation of her anxiety. The prescription was refilled two weeks later via telephone and again in July 2015 via telephone. During this period, Patient E.F. was receiving amphetamine combo medication for her attention deficit hyperactivity disorder.

43. Respondent committed repeated negligent acts in his care and treatment of Patient E.F. when he failed to perform a complete and thorough medical examination before prescribing Lorazepam.

Patient K.F.

44. Patient K.F. was a 28-year-old female who had a history of acid reflux disease, heart palpitations, and chronic fatigue. Respondent diagnosed her with generalized anxiety and insomnia in June 2012. Respondent issued a prescription via telephone for Lorazepam therapy.

45. Respondent committed repeated negligent acts in his care and treatment of Patient K.F. when he failed to perform a complete and thorough medical examination before prescribing Lorazepam.

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SECOND CAUSE FOR DISCIPLINE
(Failure to Keep Adequate Records)

46. Respondent is further subject to discipline under sections 2227 and 2334, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate medical records in the care and treatment of Patients B.S., C.S., D.M., V.A., E.F., and K.F., and as more particularly alleged in paragraphs 17 through 45, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate No. G 29711, issued to Respondent, Jeffrey Brian Frost, M.D.;

2. Revoking, suspending or denying approval of Respondent, Jeffrey Brian Frost, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent, Jeffrey Brian Frost, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: July 17, 2017

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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